ssm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 973 OF 2000

Ranbaxy Fine Chemicals Ltd. ... Petitioners.

Vs.

M/s. Vitara Chemicals Ltd. ...Respondents.

Mr.M.P.S.Rao i/by Ms. Henal Vakharia for petitioner.

ALONG WITH

COMPANY PETITION NO. 798 OF 1999

Mr. Haren Thanawala ... Petitioners.

Vs.

Mr. Vitara Chemicals Ltd. ... Respondents.

Mr. Brijesh Upadhya i/by Purnanand & Co. for the petitioners.

CORAM : ANOOP V. MOHTA,J.

DATED : 24th August, 2007

P.C.

1. The petitioners in Company Petition No. 973 of 2000 have invoked provisions under Section 434 of the Companies Act-1956 against the respondent company as though served with the statutory notice, failed to make the payment of the amount due and payable to the tune of Rs.2,96,965.14 alongwith interest @ 24% p.a..

The total amount was Rs. 4,10,804/-. The learned counsel appearing for the petitioner further submitted that even in the letters dated 13/03/1999, 31/05/1999 and 27/07/1999 the respondent company has admitted the liability.

2. The petitioners in Company Petition No. 973 of 2000, based upon that have completed all the formalities. The affidavit proving Service dated 19th March, 2001, and publication dated 23rd August, 2007 are filed.

3. The petitioners in Company Petition No. 798 of 1999 have invoked the said provision in the matter of non payment of Rs.43,07,131/- as respondent company inspite of due service of statutory notice unable to clear the amount due. Those notices are on record dated 24/04/1999 and 26/04/1999. The respondents though served even, the copy of the present petition failed to appear in the matter till this date. The affidavit dated 19th March, 2001 and 26th July, 2006 are also part of the record, pursuant to the orders passed by the Court.

4. The present petition is adjourned from time to

time because at the relevant time it was reported that the company was before the BIFR.

5. By order dated 16 March, 2007 in Company Petition No. 798 of 1999, this Court has observed that BIFR has rejected the reference. The Court thereafter, also issued notice to the companies as earlier advocate was discharged. The notice was issued and served accordingly.

6. On 4th May, 2006, in Company Petition No. 798 of 1999, this Court after considering the earlier background, while admitting the petition has directed to follow the mandatory requirements of service prescribed by Rules 26 to 28 of the Companies (Court) Rules 1959.

7. None appeared for the respondent company, though adjourned from time to time. There are other matters also in which, though served none appeared for the respondent company.

8. Indisputably the averments made in the petitions remained uncontroverted. As noted above, the claims have been admitted by the respondent company. The

petition as well as the claims as raised are within limitation.

9. Considering this uncontroverted and undisputed position on the record, the Court has no option but to allow the petition in terms of prayer clause (a) and (b) in Company Petition Nos. 798 of 1999 and 973 of 2000.

10. Resultantly, both the petitions are allowed in terms of prayer clause (a) and (b).

(ANOOP V. MOHTA,J.)